

REMARKS

Summary Of Office Action

Claims 1-87 are pending in this application. Claims 10-30, 40, 48-65, 78-80, 82, and 87 have been withdrawn pursuant to an election of species.

The Examiner rejected claims 1-9, 31-33, 35-39, 41-47, 66-68, 72-77, and 81-85 under 35 U.S.C. §102(b) as being anticipated by Russell et al. U.S. Patent No. 5,443,464 (hereinafter "Russell"). Claims 34, 69-71, and 86 were rejected under 35 U.S.C. §103(a) as being obvious from Russell.

The Examiner rejected claims 31-36 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention.

Claims 6, 9, 32-36 were objected to under 37 C.F.R. §1.75(c) as being of improper dependent form.

The Examiner objected to the drawings because FIGS. 8 and 9 are not adequately legible.

And the Examiner pointed out that the specification does not contain a specific reference to the prior U.S. provisional application from which benefit is claimed.

Summary Of Applicant's Reply

Applicant has amended the specification to contain a specific reference to the U.S. provisional application from which benefit is claimed.

Applicant concurrently submits herewith a Submission Of Formal Drawings and eleven sheets of formal drawings in reply to the drawing objection.

Claims 6, 9, 32-35 have been amended to correct typographical errors that resulted in the objections thereto. Similarly, claims 7, 47, 73-75, 77, 81, and 85 have been amended to correct typographical errors and matters of form.

Applicant has amended claims 1 and 41 to more clearly define the invention. Claim 42 has been amended to conform to claim 41. No new matter has been added.

Reconsideration of this application in view of the amendments and following remarks is respectfully requested.

Rejections Of Claims Under 35 U.S.C. § 112, Second Paragraph

Claims 31-36 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. In particular, dependent claim 31 sets forth that the reduction platform of claim 1 “is a cylindrical bar,” and the Examiner alleged that it is unclear how a cylindrical bar can be a platform, which by definition (according to the Examiner) should at least comprise a horizontal flat surface.

These rejections are respectfully traversed.

Applicant does not in any way require all embodiments of the reduction platform to have a horizontal flat surface.

Indeed, the surfaces of applicant’s reduction platform “may take any shape, configuration or contour” (specification, page 4, line 34). Furthermore, the reduction platform “may take on any shape, including but not limited to rectangular, square, circular, oblong, ellipsoidal, trapezoidal, etc.” (*id.* at page 5, lines 2-4). For example, the reduction platform may comprise “a mask-like structure 400” (*id.* at page 12, line 30) as shown in FIG. 6.

Moreover, claim 31 is fully supported in applicant's specification:

"Alternatively, for example, the reduction platform may be a cylindrical bar" (*id.* at page 2, lines 26-27), and "[a]lternatively, as shown in Figures 8 and 9, the reduction platform 50 may be a cylindrical bar 500" (*id.* at page 15, lines 3-4), which is later referred to as "cylindrical reduction platform 500" (*id.* at page 16, line 3).

Applicant therefore submits that claim 31 is not indefinite.

Accordingly, applicant respectfully requests that the rejections of claims 31-36 under 35 U.S.C. §112, second paragraph, be withdrawn.

Rejections Of Claims Under 35 U.S.C. § 102(b)

Claims 1-9, 31-33, 35-39, 41-47, 66-68, 72-77, and 81-85 were rejected under 35 U.S.C. §102(b) as being anticipated by Russell.

These rejections are respectfully traversed.

Independent method claim 72 includes the following limitations:

"threading a nut onto the fragment manipulator until the nut contacts the reduction platform; and
continuing to rotate the nut so that the fragment manipulator is drawn up through the nut thereby moving the located bone portion attached to the fragment manipulator."

Russell does not in any way disclose such limitations. In particular, Russell's retaining nut 58 is not threaded onto a fragment manipulator. In contrast, retaining nut 58 is threaded onto shoulder 62 of clamp 42, which the Examiner alleged is a reduction platform. Furthermore, once nut 58 is threaded onto shoulder 62 and contacts clamp 42, it cannot continue to rotate so that fixation pin 28 is drawn up through nut 58. Instead, "retaining nut 58 is threaded onto shoulder 62 and tightened in place. Ball collet 56 ... grippingly engages ... fixation pin 28 and fixedly secures fixation pin 28 to clamp 42" (Russell,

column 4, lines 30-35; emphasis added). Thus, Russell does not disclose the method defined in applicant's claim 72.

Independent claim 1 has been amended to define a nut configured to threadably engage the fragment manipulator at a location above the reduction platform and to engage a top surface of the platform.

Independent claim 41 has been amended to define a fragment manipulator having a threaded section extending beyond a surface of the reduction platform opposite the bone engaging end of the manipulator, the threaded section configured to allow translation of the manipulator through a receiving hole of the platform to reduce a patient's bone.

Support for these amendments is found throughout applicant's specification and drawings (*see, e.g.*, specification page 7, lines 19-22).

Russell shows no such nut and no such fragment manipulator. As shown in Russell's FIG. 2, retaining nut 58 does not threadably engage fixation pin 28. Instead, retaining nut 58 threadably engages shoulder 62 of clamp 42. Furthermore, fixation pin 28 does not have a threaded section that extends beyond a surface of clamp 42 opposite the end of fixation pin 28 that engages a bone (as shown, *e.g.*, in Russell's FIGS. 1 and 1A).

Moreover, Russell does not disclose any other structures that meet the limitations of either claim 1, 41, or 72. For example, Russell's FIG. 4 does not show a fragment manipulator having a threaded section or a manipulator onto which a nut can be threaded. Nor does Russell show a nut contacting a reduction platform that can continue rotating to draw a fragment manipulator up through the nut.

Similarly, Russell's FIG. 5 also does not show a nut contacting a reduction platform that can continue rotating to draw a fragment manipulator up through the nut. In contrast, lock nut 90 is tightened on buttress pin 26 "to prevent inadvertent loosening of

buttress pin 26” (Russell, column 5, lines 32-34). Hexagonal member 86, which threadably engages threaded portion 88 of buttress pin 26, “is secured within the opening in ball collet 48 in the same manner as hexagonal member 72” (*id.* at lines 35-37). Hexagonal member 72 is secured in collet 48 “upon tightening retainer nut 52 onto threaded shoulder 82” (*id.* at lines 13-14). Accordingly, these structures do not meet the limitations of applicant’s claims. Moreover, buttress pin 26 is not a fragment manipulator: “buttress pins 26 are designed to be substantially less intrusive ... having a point 94 ... designed to penetrate only slightly into the exterior surface of the fractured bone” (*id.* at lines 42-48).

Therefore, independent claim 72 and amended independent claims 1 and 41 are not anticipated by Russell and should thus be allowable.

For at least the above reasons, dependent claims 2-9, 31-33, 35-39, 42-47, 66-68, 73-77, and 81-85, which each depend either directly or indirectly from one of independent claims 1, 41, or 72, should also be allowable (i.e., dependent claims are allowable if their independent claim is allowable).

Furthermore, regarding dependent claims 31, 66, and 81, Russell does not show or suggest a cylindrical bar reduction platform having at least one receiving hole or a fragment manipulator inserted there through. Russell’s hexagonal bar 22, which the Examiner alleged is part of a reduction platform, has no receiving holes or fragment manipulators inserted there through. Thus, the limitations of dependent claims 31, 66, and 81 are also not anticipated by Russell.

Accordingly, applicant respectfully requests that the rejections of claims 1-9, 31-33, 35-39, 41-47, 66-68, 72-77, and 81-85 under 35 U.S.C. §102(b) be withdrawn.

Rejections Of Claims Under 35 U.S.C. § 103(a)

Dependent claims 34, 69-71, and 86 were rejected under 35 U.S.C. §103(a) as being obvious from Russell.

These rejections are respectfully traversed.

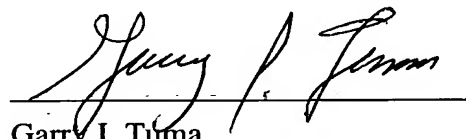
For at least the reasons discussed above with respect to independent claims 1, 41, and 72, dependent claims 34, 69-71, and 86, which each depend indirectly from one of those independent claims, are not obvious from Russell (i.e., dependent claims are allowable if their independent claim is allowable).

Accordingly, applicant respectfully requests that the rejections of claims 34, 69-71, and 86 under 35 U.S.C. §103(a) be withdrawn.

Conclusion

The foregoing demonstrates that claims 1-9, 31-39, 41-47, 66-77, and 81-86 are allowable. Therefore, subject to disposition of withdrawn claims 10-30, 40, 48-65, 78-80, 82, and 87, this application is in condition for allowance. Reconsideration and allowance are accordingly respectfully requested.

Respectfully submitted,



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